

Appl. No. : 09/508,832
Filed : July 10, 2000

REMARKS

Presently, Claims 6-9, 15-21, 29, and 30 are pending in the application. Applicants acknowledge the rejoinder of claims directed to the polypeptide encoded by the previously examined nucleic acid and Applicants thank the Examiner for acknowledging receipt of the two foreign priority documents (PO 9263 and PO 9373) and for providing Applicants with a copy of the signed form 1449 submitted on July 20, 2000.

Applicants are pleased with the determination that Claims 6, 15, and 19 are allowable and, in the present paper, Applicants have cancelled claims 18-21 and 29-30 and have amended Claims 7, 8, 9, 16, and 17, without prejudice or disclaimer, solely to expedite allowance of the application and to further Applicant's business interests. Applicants expressly reserve the right to prosecute claims directed to cancelled subject matter in a continuing application. Support for the amendments can be found throughout the specification (e.g., pages 6, 8, Example 1, and Figure 1C). Accordingly, Claims 6-9 and 15-17 are before the Examiner.

Claim Objections

The Examiner has objected to Claims 16, 21, 29, and 30 as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicants have amended Claim 16 to recite a subset of embodiments claimed in independent Claim 15, from which Claim 16 depends. The Examiner has indicated that Claim 15 is allowed. Applicants have cancelled Claims 21, 29, and 30, without prejudice or disclaimer, and reserve the right to prosecute claims directed to the cancelled subject matter in a continuing application. Accordingly, Applicants respectfully submit that the objections raised in the Office Action mailed February 22, 2005 have been fully addressed and a determination that Claim 16 is allowable is respectfully requested.

Claim Rejections under 35 USC section 112

The Examiner has rejected claims 7, 16, and 17 as being indefinite. The Examiner has also rejected Claim 20 for lack of enablement. Applicants have amended Claims 7, 16, and 17 and have cancelled Claim 20, without prejudice or disclaimer. Applicants reserve the right to prosecute claims directed to the cancelled subject matter in a continuing application.

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With respect to Claims 7 and 16, the Examiner argues that the phrase “under moderate stringency conditions” is not defined by the claim or specification. With respect to Claim 17, the Examiner argues that the phrase “further comprising” is not clear in the context of the claim. Although Applicants disagree with the Examiner’s interpretation, in an effort to place the application in condition for allowance, Applicants have amended Claim 7, 16, and 17 to remove the language at issue. Applicants also do not agree with the Examiner’s determination that Claim 20 is not enabled but have cancelled Claim 20 so as to expedite allowance of this application. Accordingly, Applicants submit that the rejections under 35 USC section 112 have been traversed and respectfully request that a determination that Claims 7, 16, and 17 are allowable be made.

Claim Rejections under 35 USC section 102

The Examiner has rejected Claims 7, 16, 21, 29, and 30 under 35 USC section 102(b) as being anticipated by Oltvai et al. The Examiner argues that Oltvai et al. teaches at least 21 contiguous nucleotides that hybridize to SEQ. ID No. 9 under moderate stringency conditions. Although Applicants disagree with the Examiner’s position, in an effort to place this application in condition for allowance, Applicants have amended Claims 7 and 16 to remove the hybridization language and have cancelled Claims 21, 29, and 30, without prejudice or disclaimer, and reserve the right to prosecute claims directed to the cancelled subject matter in a continuing application. Applicants submit that the claims, as amended, are free of the prior art and respectfully request that a determination that Claims 7 and 16 are allowable be made.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is fully in condition for allowance, and such action is earnestly solicited. If, however, any questions remain, the Examiner is cordially invited to contact the undersigned so that any such matters may be promptly resolved.


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This response has been filed with a three month extension fee. No further fees are seen as being necessary. However, the Commissioner is authorized to charge any fees in connection with this paper to Deposit Account No. 11-410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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By: 
Eric S. Furman, Ph.D.
Registration No. 45,664
Attorney of Record
Customer No. 20,995
(619) 235-8550

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